

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

MARCH 23, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Richard Carpenter, Vice President
William Elkins, Member
Lorrie I. Ward, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Bureau of State Audits report on the Appeals Division was formally released March 23, 1999.
- B. Senate Confirmation hearing for Aileen Adams occurred on March 17, 1999. The Secretary, among other questions addressed to her, responded to the questions concerning the State's affirmative action and outreach program and contracting.
- C. The State Personnel Board will be working with unions and departments to celebrate National Public Service Recognition during the first week of May.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

A. MICHAEL SCOTT V STATE PERSONNEL BOARD/CALIFORNIA YOUTH AUTHORITY

The Court of Appeal (2nd appellate district) sustained the trial court which sustained State Personnel Board's decision affirming the dismissal of a Youth Counselor who, while holding a can of mace in his hand, ordered a ward to strip naked in full view of over 70 wards and staff, including a female staff member. Scott had contended that the evidence did not support the decision and that the penalty was excessive. The decision is not published. We did not take an active role. The Department was represented by the Department of Personnel Administration.

Other

A. Bruce Monfross has been selected to fill the vacant Staff Counsel position in the Chief Counsel's Office. He comes most immediately from the Department of Corrections. Prior to that, he worked for the Department of Social Services and also was in private practice with the firm of Porter, Scott, Weiberg and Delehant. As a law clerk, Mr. Monfross worked for both the California Correctional Peace Officers' Association and California State Employees' Association.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

A. The Legislature recesses for Spring break March 25 and returns April 5, 1999.

The State Personnel Board voted on the following Legislative bills:

A. AB 712 (Firebaugh) - Would extend time frame for filing appeals with State Personnel Board for California State University employees - Support.
VOTE: Bos, Carpenter, Elkins, Ward - Aye.

- B. SB 1051 (Murray) - Clarifies statutory language to add emphasis to State affirmative action requirements - Neutral.
VOTE: Bos, Carpenter, Elkins, Ward - Aye.
- C. SB 129 (Peace) - Personal information: Collection and disclosure. Change of position from oppose unless amended to neutral(as amended March 17, 1999).
VOTE: Bos, Carpenter, Elkins, Ward - Aye.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF MARCH 9, 1999

ACTION: Adopted on March 23, 1999.
VOTE: Bos, Carpenter, Elkins, Ward - Aye.
6. ADMINISTRATIVE LAW JUDGE CASES
On March 23, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.
VOTE: Bos, Carpenter, Elkins, Ward - Aye.

PROPOSED DECISIONS

JOYCE E. WHITE, CASE NO. 98-4598
Appeal from rejection
Department of Developmental Services
ACTION: Rejection Affirmed and Appeal Denied

ANDREW B. DONATO, CASE NO. 98-5074
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Sustained

LARRY FELLOWS, CASE NO. 98-4447
Appeal from 5 percent reduction in Salary for 1 month
Department of Corrections
ACTION: Reduction in Salary Sustained

FRANK PIPER, CASE NO. 98-3767
Appeal from 3 days suspension
Health and Human Services
ACTION: Suspension Sustained

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RAYMOND HOLM, CASE NO. 98-1801
Appeal from official reprimand
Department of Forestry and Fire Protection
ACTION: Board Adopted Findings of Fact, but Revoked
Official Reprimand

YOUNG PARK, CASE NO. 98-3585
Appeal from 5 percent reduction in salary for 6 months
YOUNG PARK, CASE NO. 99-0029
Appeal from dismissal
Department of Mental Health
ACTION: Administrative Law Judge's Proposed Decision
Rejected by Board. Board to Decide Case Itself.

ANDREW KIRSCHNER, CASE NO. 98-2799
Appeal from 1-step reduction in salary for 12 months
Department of Corrections
ACTION: Reduction in Salary Modified to 1-Step for 6 Months

JOSEPH P. CARLSON, CASE NO. 98-3904
Appeal from dismissal
Department of Corrections
ACTION: Administrative Law Judge's Proposed Decision
Rejected by Board. Board to Decide Case Itself.

ROSIE M. EALY, CASE NO. 98-3870
Appeal from 1-step reduction in salary for 6 months
Department of Motor Vehicles
ACTION: Reduction in Salary Sustained

GABRIEL OLIVER, CASE NO. 98-4871
Appeal from 1-step reduction in salary for 6 months
Department of Motor Vehicles
ACTION: Reduction in Salary Sustained

EDWARD G. ROBINSON, CASE NO. 98-4839
Appeal from dismissal
Department of Transportation
ACTION: Dismissal Sustained

IGNACIO SALAZAR, CASE NO. 98-1560
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Sustained

DIANE K. BYRNES, CASE NO. 98-1144
Appeal from demotion
Department of Motor Vehicles
ACTION: Demotion Modified to Temporary Demotion for 1 Year

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1 EXTENSION. (See pages 15-17)
8. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments, Rule 211 Appeals, Petitions for Rehearing)
On March 23, 1999, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.
VOTE: Bos, Carpenter, Elkins, Ward - Aye.
 - * RUDOLFO PICHARDO, Case No. 98-4818
Classification: Youth Counselor
ACTION: DENIED
 - * PETER E. MATRAFAILLO, Case No. 98-4686
Classification: Cadet, California Highway Patrol
ACTION: DENIED
 - * JEREMY D. SALYERS, Case No. 98-5124
Classification: Correctional Officer
ACTION: DENIED
 - * EDWIN A. AGBAYANI, Case No. 98-4906
Classification: Cadet, California Highway Patrol
ACTION: DENIED
 - * DAVID M. WAGNER, Case No. 98-5032
Classification: Cadet, California Highway Patrol
ACTION: DENIED
 - * BRIAN P. SOMERS, Case No. 98-5136
Classification: Cadet, California Highway Patrol
ACTION: DENIED
 - * REGINA BALTHAZAR, Case No. 98-3350
Classification: Motor Vehicle Field Representative (DMV)
ACTION: DENIED
 - * RODNEY MORGAN, Case No. 98-4116
Classification: Caltrans Landscape Maintenance Worker
ACTION: DENIED
 - * MICHAEL S. ARMSTEAD, Case No. 98-4451
Classification: Cadet, California Highway Patrol
ACTION: DENIED

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- * APRIL M. CARLSON, Case No. 98-4670
Classification: Motor Vehicle Field Representative (DMV)
ACTION: DENIED
- * ALFRED NORIEGA, Case No. 98-4411
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- * CARL A. SIMS, Case No. 98-4238
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- * SEAN C. SONKE, Case No. 98-4669
Classification: Hospital Peace Officer I
ACTION: DENIED
- * MICHAEL S. INGRAM, Case No. 98-5227
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- * YSAIAS V. ZAMUDIO, Case No. 98-3889
Classification: Correctional Officer
ACTION: DENIED
- * ALICE F. KNOX, Case No. 98-4676
Classification: Correctional Officer
ACTION: DENIED
- * JOHN J. NAGEL, Case No. 98-4930
Classification: Correctional Officer
ACTION: DENIED
- * LOUIE R. MARTINEZ, Case No. 98-4674
Classification: Correctional Officer
ACTION: DENIED
- * YOLANDA RENDON, Case No. 98-4682
Classification: Correctional Officer
ACTION: DENIED
- * MARK J. THOMPSON, Case No. 98-3886
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- * TRAVIS E. WISBERG, Case No. 98-5116
Classification: Cadet, California Highway Patrol

ACTION: DENIED

- * DENNIS W. WOODBURY, Case No. 98-4647
Classification: Cadet, California Highway Patrol
ACTION: DENIED.

DISMISSED CASE

- * THOMAS J. O'DONNELL, Case No. 98-2521
Classification: Cadet- California Highway Patrol
ACTION: DISMISSED - Department withdrew action.

9. MEDICAL APPEALS

On March 23, 1999, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

- A. RUSSELL HOOVER, Case No. 99-0067
Psychological disqualification.
ACTION: GRANTED
- B. CAROLYN RIVAS, Case No. 99-0325
Psychological disqualification.
ACTION: GRANTED
- C. MARV BOTTGGER, Case No. 97-4667
The appeal of Marv Bottger from the Employment Development Department denial of his reasonable accommodation.
ACTION: - DENIED
- D. MICHAEL WATSON, Case No. 98-1667
The appeal of Michael Watson, medically disqualifying him from employment as a Cadet
ACTION: DENIED
- E. JEFFREY MORTENSON, Case No. 98-1242
The appeal of Jeffrey Mortenson, medically disqualifying him from employment as a Cadet.
ACTION: DENIED
- F. ESTHER ALFARO, Case No. 98-1241
The appeal of Esther Alfaro, medically disqualifying her from employment as a Cadet.
ACTION: DENIED
- G. JAMES CAMPOS, Case No. 98-1075

The appeal of James Campos, medically disqualifying him from employment as a Correctional Officer.
employment.

ACTION: DENIED

- H. EARL ERDMAN, Case No. 98-2404
The appeal of Earl Erdman, medically disqualifying him from employment as a Hospital Peace Officer I.
ACTION: DENIED
- I. JO'NANE GARLINGTON, Case No. 97-4320
The appeal of Jo'Nane Garlington, medically disqualifying her from employment as a Correctional Officer.
ACTION: DENIED
- J. KENNETH CAMPBELL, Case No. 98-2018
The appeal of Kenneth Campbell, medically disqualifying him from employment as a Cadet, California Highway Patrol.
ACTION: DENIED
- K. MIGUEL MORENO, Case No. 98-0938
The appeal of Miguel Moreno, medically disqualifying him from employment as a Cadet, California Highway Patrol.
ACTION: DENIED
- L. MEGAN SMAKER, Case No. 98-2424
The appeal of Megan Smaker, medically disqualifying him from employment as a Fire Fighter I.
ACTION: DENIED
- M. MARK DRAZIC, Case No. 98-1057
The appeal of Mark Drazic, medically disqualifying him from employment as Cadet, California Highway Patrol.
ACTION: DENIED
- N. JAMES NAU, Case No. 98-3520
The appeal of James Nau, medically disqualifying him from employment as Cadet, California Highway Patrol.
ACTION: DENIED

DISMISSAL CASES

- * TIRRELL C. HAYES, Case No. 98-2706
ACTION: DISMISSED - Appellant withdrew appeal.

- * GIOVANNA FARLEY, Case No. 98-0762
ACTION: DISMISSED - Appellant withdrew appeal.
- * DENISE PRESSMAN, Case No. 98-4809
ACTION: DISMISSED - Appellant withdrew appeal.
- * JEFFREY LANE, Case No. 98-3406
ACTION: DISMISSED - Appellant withdrew appeal
- * LISA A.TILLMAN, Case No. 98-5157
ACTION: DISMISSED - Appellant withdrew appeal
- * THEODORE M. GARCIA, Case No. 98-4679
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
- * ANTHONY KERNAZITSKAS, Case No. 98-4783
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
- * ROBERT COLLINS, Case No. 98-4619
ACTION: DISMISSED - Appellant withdrew appeal
- * ALAN R. MULLER, Case No. 98-4943
ACTION DISMISSED - Appellant did not confirm
appearance for scheduled hearing.

10. EXAMINATION APPEALS

On March 23, 1999, the Board adopted the following decisions
presented by Walter Vaughn, Executive Officer, California
State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

- A. SWARTZLANDER, GARY G., Case No. 98-1927
Final Filing Date: No Bulletin in Folder
Examination: Qualifications Appraisal
Interview
Class: Correctional Plant Supervisor,
Testing Agency: Department of Corrections
Appeal Received: May 15, 1998
ACTION: GRANTED

DISMISSAL CASES

- * RICHARD THAXTON, Case No. 98-3710
ACTION: DISMISSED - Appellant withdrew appeal.
- * MARGARET PETERSON, Case No. 98-2728
ACTION: DISMISSED - Appellant withdrew appeal.

11. NON-HEARING CALENDAR

On March 23, 1999, the Board adopted items A-E. These items were presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

A. CRIMINALIST

The Department of Justice proposes revisions to the Alternate Range Criteria 277 used for the class of Criminalist classification.

B. SERVICE ASSISTANT (SOCIAL SERVICES)

The Department of Social Services proposes the establishment of the class of Service Assistant (Social Services) with a six-month probationary period.

C. CALTRANS ELECTRICAL REGION MANAGER

The Department of Transportation proposes to abolish the class of Caltrans Electrical Region Manager and to convert the series specification to a single class specification for Caltrans Electrical Superintendent.

D. CALTRANS ADMINISTRATIVE TECHNICIAN

The Department of Transportation proposes to add Footnote 24 to the class of Caltrans Administrative Technician to prevent further appointments to the class and to designate that it is to be abolished when it becomes vacant.

E. LIGHT POWER, SHOVEL OPERATOR

The Department of Transportation proposes to abolish the class of Light Power, Shovel Operator.

12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION

(1) ASSISTANT DEPUTY DIRECTOR, OFFICE OF SUPPORT SERVICES

The Department of Corrections proposes to allocate one position to the CEA category. The department indicates that the position will be responsible for the formulation and implementation of policies and programs relating to the multi-million dollar business and contract services, food services, and materials management

program within the department. (Board meeting of February 17, 1999.)

(2) CHIEF, INFORMATION TECHNOLOGY BRANCH
CHIEF, FINANCIAL & MANAGEMENT SERVICES BRANCH
CHIEF, HUMAN RESOURCES & SUPPORT SERVICES BRANCH
The California Energy Commission proposes to allocate the above positions to the CEA category. The department indicates that these positions will report to the Executive Directorate and will be responsible for developing, implementing and evaluating policies within their functional area of responsibility. Currently, the Administrative Services Division is comprised of the above three branches under the direction of a CEA 2. The Commission proposes to reorganize the division, remove the CEA 2 designation and create three distinct and separate branches, each with a CEA. (Board Meeting of March 23,1999.)

(3) CHIEF, BUSINESS SYSTEMS
CHIEF, TECHNOLOGY

The State Controller's Office proposes to allocate the above positions to the CEA category. The department indicates that these positions will report to the Chief, Information Systems Division and will be responsible for setting policy within their functional area of responsibility. (Board meeting of March 23, 1999.)

B. CEA POSITION ACTIONS APPROVED BY DPA AND APPROVED OR DENIED BY SPB MANAGEMENT

(1) DIRECTOR, MANAGEMENT SYSTEMS

The Department of Education's proposed allocation of one position to the CEA category to perform the duties of the above position has been disapproved.

- (2) CHIEF, CUSTOMER SERVICE BRANCH
The Department of Motor Vehicles' proposed allocation of one position to the CEA category to perform the duties of the above position has been approved for an additional 12 months.

- (3) ADMINISTRATOR, CUSTOMER SERVICE, FIELD OFFICE DIVISION
The Department of Motor Vehicles' proposed allocation of one position to the CEA category to perform the duties of the above position has been disapproved.

- (4) DIRECTOR, GENERAL TAX LAW BUREAU
The Franchise Tax Board's proposed allocation of one position to the CEA category to perform the duties of the above position has been disapproved.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. DORIS JONES, CASE NO. 97-5107. Appeal from constructive medical termination. Department of Transportation, (Oral argument held November 5, 1998.)

NO ACTION

2. ROBERT DAVIS, CASE NO. 97-2572. Appeal from dismissal. Department of Corrections, (Oral argument held November 5, 1998.)

NO ACTION

3. SUSAN ALEXANDER, CASE NO. 97-0100. Appeal from constructive medical termination. Department of Fish and Game, (Oral argument held December 8, 1999.)

NO ACTION

4. LINDA J. GRIER, CASE NO. 97-3213. Appeal from medical demotion. Department of Health Services, (Oral argument held January 5, 1999.)

NO ACTION

5. CHRISTINE RUELAS, CASE NO. 36860. Appeal from medical termination. State Board of Control, (Written argument presented January 5, 1999.)

NO ACTION

6. JANET E. MOOREHEAD, CASE NO. 97-1989. Appeal from 60 calendar days' suspension. Department of Corrections, (Oral argument held January 5, 1999.)

NO ACTION

7. MICHAEL D. BUNNELL, CASE NO. 96-2675. Appeal for determination of back salary, benefits, and interest after reinstatement. Department of Corrections, (Oral argument held January 5, 1999.)

NO ACTION

8. JALAL EMAMI, CASE NO. 98-2116. Appeal from constructive medical termination. Department of Water Resources, (Oral argument held March 9, 1999.)

NO ACTION

10. RANDY L. MORENO, CASE NO. 97-4017. Appeal from demotion. Department of Development Services, (Oral argument held March 9, 1999.)

NO ACTION

11. THOMAS MARSHALL, CASE NO. 98-1336. Appeal from non-renewal of employment Head Coach, California State Polytechnic University of Pomona, (Oral argument held March 9, 1999.)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

March 23, 1999

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on March 23, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Carpenter, Elkins, Ward - Aye.